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JOB ORDER NUMBER: 42-1289

CONDITIONAL USE PERMIT NO. 10325
SITE DEVELOPMENT PERMIT NO. 10326
UNIVERSITY OF SAN DIEGO – SCHOOL OF EDUCATION [MMRP]
PROJECT SITE NO. 30
AMENDMENT TO
THE UNIVERSITY OF SAN DIEGO MASTER PLAN
CONDITIONAL USE AND RESOURCE PROTECTION ORDINANCE
PERMIT NO. 92-0568
CITY COUNCIL

This Conditional Use Permit (CUP) No. 10325 and Site Development Permit (SDP) No. 10326 (Amendment to the University of San Diego Master Plan CUP No. 92-0568), County Recorder's Office Document Number 1997-0646791 dated December 19, 1997, AMENDS the University of San Diego Master Plan CUP/RPO Permit No. 92-0568, by adding the following conditions as included in this Permit. This Permit is granted by the City Council of the City of San Diego to THE UNIVERSITY OF SAN DIEGO, A CALIFORNIA NOT-FOR-PROFIT CORPORATION, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] Sections 126.0301 and 126.0501. The 180-acre site is addressed as 5998 Alcalá Park and generally located north of Linda Vista Road, west of Via Las Cumbres, east of Cushman Avenue and south of Tecolote Canyon Natural Park. The 180-acre campus is legally described as Pueblo Lots 287, 288, 294-296; Portions of Pueblo Lots 267, 286, 292, 293, and 297; Blocks 22 and 23; Portions of Blocks 20 and 25; and Lots 1-3, Block 'A', Silver Terrace, Map No. 434; Parcels 'A' and 'B', Parcel Map No. 319; and Parcels 1 and 2, Parcel Map No. 7526, within the RM-3-7 and RM-4-10 (Residential/Multi-Family) and CC-1-3 (Community-Commercial) Zones of the Linda Vista Community Plan Area.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to implement a phased development on a 3.3-acre portion of the Campus identified as 'Project Site No. 30', to accommodate development of a School of Education and a Child Care Center, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated _____, on file in the Development Services Department.

The project or facility shall include:

- a. Building No. 1 - School of Education – One, multi-story, maximum 83,900 square-foot building containing classrooms, offices, teaching laboratories, and accessory spaces; and
- b. Building No. 2 – Child Care Center – One, one-story, maximum 7,350 sq. ft. building containing faculty offices, a Child Care Center, and play area;
- c. Landscaping (planting, irrigation and landscape related improvements); and
- d. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

7. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game [CDFG] pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this Permit hereby confers upon Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement [IA], executed on July 16, 1997, and on file in the Office of the City Clerk as Document No. OO-18394. Third Party Beneficiary status is conferred upon Permittee by the City: (1) to grant Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS, or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Permittee of mitigation obligations required by this Permit, as described in accordance with Section 17.1D of the IA.

8. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

9. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," on file in the Development Services Department. No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing

shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program (MMRP). These MMRP conditions are incorporated into the permit by reference or authorization for the project.

12. As conditions of Conditional Use Permit No. 10325 and Site Development Permit No. 10326, the mitigation measures specified in the MMRP, and outlined in the Addendum to Environmental Impact Report DEP No. 92-0568 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

13. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as specified in the Addendum to Environmental Impact Report DEP No. 92-0568 satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

Biological Resources

14. Prior to issuance of any construction permit, the applicant shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

ENGINEERING REQUIREMENTS:

15. Prior to the issuance of any building permits, the applicant shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to the requirements of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

16. Prior to building occupancy, the applicant shall conform to Section 62.0203 of the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

17. Prior to the issuance of any construction permit, the Applicant shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the Municipal Code, into the construction plans or specifications.

18. Prior to the issuance of any construction permit the Applicant shall provide evidence of coverage under the General Industrial National Pollutant Discharge Elimination System, in the form of a Notice of Intent (NOI) filed with the State Water Resources Control Board.

19. Prior to the issuance of any construction permit the Applicant shall incorporate and show the type and location of all post-construction Best Management Practices (BMP's) on the final construction drawings, consistent with the approved Water Quality Technical Report.

20. Prior to the issuance of any construction permit, the Applicant shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.

21. The drainage system proposed for this development, as shown on the plans, is subject to approval by the City Engineer.

LANDSCAPE REQUIREMENTS:

22. Prior to issuance of any permits, revised plans shall be submitted indicating conformance to previously approved plans. Revised plans shall include a statement indicating the developments conformance with the goals of the USD Landscape Master Plan and landscape related conditions and exhibits of CUP/RPO Permit No. 92-0568.

23. All proposed landscape improvements shall meet the requirements of the City Landscape Regulations (Ch.14, Art.2, Div.4 SDMC), and shall include a Design Statement which should address the objectives of the USD Master Plan, including such issues as maintaining unifying landscape themes throughout the campus, utilizing existing campus plant palettes, and reducing visual impacts by providing perimeter landscaping near the adjacent residential community.

24. Revised plans shall be consistent and indicate site development features such as landscaping/ ground cover shown on grading plan; extent of grading consistent with the grading plan; and existing trees and large shrubs to remain and to be removed.

25. Revised plans shall indicate calculations per the land development code for: Street Yard, Remaining Yard, and Vehicular Use Area(s).

26. Revised plans shall provide legends and details for planting areas including those for trees, groundcover, parking islands, brush management, slope revegetation, free-standing or retaining walls and/or fences.

27. Revised plans shall indicate consistency between the legend and the demarcated areas and plantings.

28. Revised plans shall indicate the location of the trash enclosure area.

29. This development shall conform to the landscape requirements of the following documents: USD Master Plan and Design Guidelines, Environmentally Sensitive Lands Regulations, and City-Wide Landscape Regulations, and Land Development Manual- Landscape Standards.

30. Installation of slope planting and erosion control including seeding of all disturbed land (slopes and pads) consistent with the approved landscape and grading plans is considered to be in the public interest. The Permittee shall initiate such measures as soon as the grading has been accomplished. Such erosion control/slope planting and the associated irrigation systems

(temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the Landscape Standards

31. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections.

PLANNING/DESIGN REQUIREMENTS:

32. The University of San Diego shall have the following options (Option “a” or Option “b”) related to the provision of off-street parking spaces on “Project Site No. 30”. The University shall select either option ‘a, or b’ and shall submit appropriate plans for staff review prior to issuance of any grading or building permit(s). No other modifications to the project are authorized by this Condition.

- a. Option ‘a’ - The University, at its discretion, may choose not to provide the 207 off-street, subterranean, parking spaces initially included and reviewed with this project. In this event, the project will be developed with no off-street parking spaces within “Project Site No. 30”. Revised plans shall reflect a corresponding reduction in biological impacts to environmentally sensitive lands, consistent with the elimination of driveway access to what would have otherwise been the subterranean parking level(s), from Marian Way. All plans (Exhibit “A” REVISED), shall be consistent with, and substantially conform to those reviewed and approved, including but not limited to Site, Elevation and Landscaping Plans (with the exception of Parking).
- b. Option ‘b’ - The University, at its discretion, may choose to provide 207 off-street, subterranean parking spaces as initially included and reviewed with the project. In this event, the project will be developed with 207 off-street, subterranean, parking spaces as initially included with the project on “Project Site No. 30”. Submitted plans shall be consistent with those submitted, reviewed and approved (Exhibit “A”). Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.
- c. These options are being granted to the University in recognition that the number of required off-street parking spaces on the Campus is regulated by the Master Plan CUP/RPO Permit No. 92-0568 as approved by the City Council on October 29, 1996, and not on a project specific basis. The Master Plan CUP/RPO Permit 92-0568 requires that pursuant to an approved traffic study considered with the preparation and certification of Environmental Impact Report No. 92-0568, a minimum of 4,683 off-street parking spaces are required to be provided on the campus. This number of required off-street parking spaces was determined by considering the full-time equivalent (FTE) status of the University, authorized at a maximum of 7,000 FTE (considering student enrollment, staff and faculty), with an accepted ratio (0.67). No increase in FTE beyond 7,000, as approved by Master Plan CUP/RPO Permit No. 92-0568, is being granted with approval of this Permit.
- d. Prior to commencement of each academic year, USD shall provide the City with the current FTE, and shall demonstrate to the satisfaction of the Development Services Director, that a

corresponding number of parking spaces and their location, are provided on campus. This shall be accomplished by multiplying the accepted ratio (0.67) by the FTE for that academic year” (7,000 FTE maximum). This information shall be consistent with related information submitted to the United States Department of Education. This Condition shall be satisfied by the submission of a letter from the University to the Development Services Director, with a copy to the Supervising Senior Transportation Engineer of the Transportation Development Section, Land Development Review Division.

33. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

34. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

35. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Permittee.

36. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

37. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

38. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

39. No mechanical equipment, tank, duct, elevator enclosure, cooling tower, mechanical ventilator, or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed, architecturally integrated structure whose top and sides may include grillwork, louvers, and latticework.

40. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit “A,” on file in the Development Services Department.

41. All Conditions of approved USD Master Plan CUP/RPO Permit No. 92-0568 shall apply and remain in full force and effect.

WASTEWATER REQUIREMENTS:

42. All proposed sewer will be private.

43. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

WATER REQUIREMENTS:

44. Prior to the issuance of the first building or grading permit, the Owner/Permittee shall initiate processing of a master encroachment maintenance and removal agreement (EMRA) for all encroachments into the public water easements traversing the entire USD campus, including the Marian Way Pedestrian Mall, in a manner satisfactory to the Water Department Director and the City Engineer.

45. Prior to the issuance of the first building or grading permit, the Owner/Permittee shall assure, by permit and bond, the design and construction of minimum 24-foot wide two-way vehicular access roadways to all fire hydrants and water meters located outside of fully improved public rights-of-way, in a manner satisfactory to the Water Department Director and the City Engineer, or provide evidence that such access and appropriate easements already exist.

46. Prior to the issuance of the first certificate of occupancy, the Owner/Permittee shall grant additional water easements to widen existing easements to cover all public water facilities and associated access ways within the entire USD campus including the Marian Way Pedestrian Mall, in a manner satisfactory to the Water Department Director and the City Engineer.

47. Prior to the issuance of the first certificate of occupancy, the approved master EMRA, for all private encroachments into public water easements traversing the entire USD campus, shall be recorded in a manner satisfactory to the Water Department Director and the City Engineer.

48. Prior to the issuance of any certificates of occupancy, all public water facilities necessary to serve this development, including services and fire hydrants, shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.

49. The Owner/Permittee agrees to design and construct all proposed public water facilities, and grant appropriate easements, in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities and associated easements, as shown on approved Exhibit "A," will require modification based on standards at final engineering.

GEOLOGY REVIEW:

50. An updated geotechnical report will be required as grading plans are developed for the project. The geotechnical consultant must review, sign and stamp the grading plans as part of the plan review and grading permit issuance process. A Final As-Built Report is required within 15 days of completion of grading operations.

51. Additional geotechnical information such as verification of as-graded or existing soil conditions needed for design of structure foundations will be subject to approval by Building Development Review prior to issuance of building permits.

INFORMATION ONLY:

a. Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

b. A Development Impact Fee (DIF) is required for this project and is due at the time of building permit issuance. This fee is based upon the determination that the project will result in an increase in square feet over what currently exists on the site. A Housing Trust Fund (HTF) impact fee on nonresidential development is required for this project and is due at the time of building permit issuance.

RECOMMENDED FOR APPROVAL to the City Council of the City of San Diego, by the Planning Commission of the City of San Diego on December 2, 2004, by a Vote of 7-0, Resolution No. 3604-PC.

AUTHENTICATED BY THE CITY MANAGER

By

The undersigned Permittee by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Permittee hereunder.

[NAME OF COMPANY]
Owner/Permittee

By

By

**NOTE: Notary acknowledgments
must be attached per Civil Code
Section 1180 et seq.**